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2 **BEFORE THE INSURANCE COMMISSIONER**  
3 **OF THE STATE OF CALIFORNIA**  
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5 In the Matter of the Rates, Rating Plans, or  
6 Rating Systems of:

7 MERCURY INSURANCE GROUP

8 (MERCURY CASUALTY COMPANY,  
9 MERCURY INSURANCE COMPANY,  
10 CALIFORNIA AUTOMOBILE  
11 INSURANCE COMPANY,  
12 AMERICAN MERCURY  
13 INSURANCE COMPANY and  
14 CALIFORNIA GENERAL  
15 UNDERWRITERS INSURANCE  
16 COMPANY, INC.),

17 Respondents.

File No. NC 04-038852

STIPULATION AND SETTLEMENT  
AGREEMENT

16 The Respondents listed above and the California Department of Insurance  
17 ("Department") stipulate as follows:

18 **RECITALS**

- 19 1. All of the Respondents hold, and at all relevant times held, Certificates of Authority  
20 issued by the Department to conduct the business of insurance in California and each is a  
21 member of the Mercury Insurance Group.
- 22 2. The Department conducted Field Rating and Underwriting Examinations of the  
23 Respondents for the periods January 1, 1995 to July 2, 1998 and from January 1, 2001 to August  
24 31, 2002. Following the examinations, the Department issued Reports of Examination on,  
25 respectively, February 1, 1999 and March 16, 2004 (the "Reports"). Some practices criticized in  
26 the 1998 examination were found to have been repeated during the 2004 examination.
- 27 3. The Notice of Noncompliance filed on November 16, 2005 alleged that the rating and  
28 underwriting practices of three of Respondents' companies violated California law including, but

not limited to, California Insurance Code sections 491, 677.2(c), 790.02, 790.06, 1857, 1861.02(b)(1), 1861.02(c), 1861.025, 1861.03(a), 1861.03(c)(1), 1861.05(a), 1861.16(b), 11580.08, and California Code of Regulations (“CCR”), Title 10, Chapter 5 , Subchapter 4.7, sections 2360.0(b), 2360.2, 2360.3, 2360.4, 2404, 2430, 2431, 2470, 2632.5(c)(1)(A), 2632.5(d)(11), 2632.12(b), 2632.13, 2632.13 (c), 2632.14(b), 2632.19.

4. The allegations set forth in the Notice of Noncompliance were against three Respondent insurers selling automobile policies in California: Mercury Casualty Company, Mercury Insurance Company and California Automobile Insurance Company. On April 11, 2006, after discussion with the Respondents, the Department filed a First Amended Notice of Noncompliance which reduced the number of allegations against the three Respondent insurers.

5. The Department’s remaining allegations in the First Amended Notice of Noncompliance against these companies relate to the administration of telephone inspection requirements; allowing the placement of statutory good drivers in programs without consistently providing such drivers adequate advice about different premium, coverage, and payment options available to them in other programs; canceling personal automobile policies without consistently availing applicants of the opportunity to exclude ineligible non-good drivers; requiring a supporting automobile policy to purchase a homeowner’s policy; using driving record violation information in some cases in which there was only a Failure to Appear with respect to the offense; preventing insureds from making changes to their policy coverages and from re-applying for coverage due to past non-renewals; and failure to consistently provide 30 days advance notice of cancellation for commercial automobile insureds.

6. The Respondents filed timely Responses after both Notices, denying the factual and legal bases of all the allegations in the Notices.

7. In the interest of resolving this matter without further administrative action, Respondents and the Department have agreed to the settlement described below.

#### **STIPULATION AND SETTLEMENT AGREEMENT TO RESOLVE MATTER**

1. The Department and Respondents, without the need for a hearing and without the need for further administrative action, stipulate as follows:

2. Respondents waive their rights to a hearing and any and all rights that they may have under California Insurance Code section 1858.1, et seq. and Government Code section 11500 et seq. with respect to this matter.

3. Both after the issuance of the Reports and prior to the filing of the Notice of Noncompliance, Respondents took extensive remedial steps following both the 1998 and 2002 Field Rating and Underwriting examinations. Respondents have changed certain criticized rating and underwriting practices, made revisions to the administration of the automobile programs offered to the public, and undertaken additional steps to assure that all automobile programs are available to all statutory good drivers, and/or have otherwise agreed to resolve all of the allegations made in the Notices of Noncompliance, to the satisfaction of the Department.

4. Respondents, going forward, will not treat the Failure to Appear as a conviction until such time, in accord with the mandate of the Vehicle Code, such failure to appear is consummated in either a forfeiture of bail or the payment of a fine for the underlying Vehicle Code violation at the time of license or vehicle registration renewal.

5. Respondents, going forward, may rely on a failure to respond to a telephone survey aimed at verifying information contained on automobile insurance applications as a basis for nonrenewing automobile insurance provided that their existing two telephone call protocol followed up by a written communication is amended to include a copy of the survey in the follow-up written communication with the advice that the insured may reply orally or in writing. As per the requirements of Section 2632.19(b) of Title 10, California Code of Regulations, the follow-up written communication will advise the insured in English and Spanish that they have 30 days to respond and that their failure to respond will result in nonrenewal of their policy. The Respondents intend to continue the procedure as a means of both reinforcing their relationships with their insureds and avoiding subsequent disputes regarding application representations and further intend to rely on information obtained as an outgrowth of the procedure in their underwriting.

6. Respondents acknowledge that Section 12921 of the California Insurance Code requires the Insurance Commissioner to approve the final settlement of this matter and that the terms and

conditions contained herein are subject to the Commissioner's approval or rejection.

7. After the Insurance Commissioner executes the Order approving and adopting this Stipulation, and within 30 days after receiving an invoice from the Department, Respondent shall pay to the Department the amount of Three Hundred Thousand Dollars (\$300,000.00) as a monetary penalty.

8. This Stipulation resolves all acts covered in the First Amended Notice of Noncompliance for the period in the report and up to the date of this Stipulation.

9. By agreeing to this Stipulation, Respondents do not admit any liability, wrongdoing or violation of any of the alleged noncompliances either withdrawn or still pending.

10. The Insurance Commissioner retains jurisdiction to ensure that the parties comply with the provisions and terms of this Stipulation.

11. Nothing contained in this Stipulation constitutes a limitation upon, or a waiver of the rights and powers of the Insurance Commissioner to enforce any California law, to examine the rating, underwriting and any other business practices of Respondents, to take corrective or disciplinary action, to assess penalties against Respondents as provided for by law, or to take such other action as necessary to protect the public, except that no additional assessments shall be made against Respondents based on any of the allegations contained in the First Amended Notice of Noncompliance arising from acts occurring before the issuance of this Stipulation and Order of the Commissioner.

DATE: June 2, 2006

MERCURY INSURANCE GROUP

By: \_\_\_\_\_/s/\_\_\_\_\_  
Douglas L. Hallett  
Attorney for Respondents

By: \_\_\_\_\_/s/\_\_\_\_\_  
Gabriel Tirador  
Respondents' President

1 DATE: June 2, 2006

CALIFORNIA DEPARTMENT OF INSURANCE

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3 By: \_\_\_\_\_/s/\_\_\_\_\_  
4 Brian D. FitzGerald  
5 Senior Staff Counsel  
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